



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,700	09/15/2003	Babak Damaghi	34294/3	1032

1912 7590 11/18/2010
AMSTER, ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

EXAMINER

LASTRA, DANIEL

ART UNIT	PAPER NUMBER
----------	--------------

3688

MAIL DATE	DELIVERY MODE
-----------	---------------

11/18/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/662,700	Applicant(s) DAMAGHI, BABAK	
	Examiner DANIEL LASTRA	Art Unit 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4, 6 and 8-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 6 and 8-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Claims 1, 4, 6 and 8-18 have been examined. Application 10/662,700 (ENHANCED METHOD OF RADIO AND TV ADVERTISING) has a filing date 09/15/2003.

Response to Amendment

2. In response to Final Rejection filed 11/17/09, the Applicant filed an RCE on 01/26/10, which amended claims 1, 8, 15-18.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 6 and 8-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Llenas (US 5,271,626).

Claim 1, Llenas teaches:

A method of advertising within a radio media broadcast program which features regular program content and content related to commercials, comprising:

A. establishing a contest whereby listeners of said program may become participants in said contest by following procedures of said contest, said contest including the broadcast of clues using radio broadcasting media from time to time at least partially during the broadcast of the audio content one of said commercials (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular

Art Unit: 3688

programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it"), with the contest requirement that a participant respond to said at least one broadcasted clue and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60),

B. broadcasting using the radio broadcast media at least one set of regular program content during said program (see figure 4b; col 1, line 5 – col 3, line 60),

C. broadcasting using the radio broadcast media at least one commercial during said the audio content of said program as part of the audio content related to commercials (see figure 4b; col 1, line 5 – col 3, line 60).

D. broadcasting using the radio broadcast media at least one clue at least partially during the audio content of said at least one commercial as part of the audio content related to the commercials audio content (see figure 4b; col 1, line 5 – col 3, line 60), and

E. providing a specified award to each participant whose response to said clue satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 4, Llenas teaches:

wherein said at least one clue is incorporated into a commercial (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 6, Llenas teaches:

broadcasting at least two separate sets of songs, and broadcasting at least one commercial following each of said sets of songs, and broadcasting at least one clue at least partially during the at least one of said commercials (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 8, Llenas teaches:

A method of advertising within a radio media broadcast program which features regular program content and content related to commercials comprising:

A. establishing a contest whereby listeners of said program may become participants in said contest by following procedures of said contest, said contest including the broadcast of clues using radio broadcasting media from time to time at least partially during broadcast of one of said commercials, with the contest requirement that a participant respond to said at least one broadcasted clue and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60), (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it”),

B. broadcasting using the radio broadcast media at least one set of regular program content during said program (See figure 4b),

C. broadcasting using the radio broadcast media at least one set of commercials during said program as part of the content related to commercials (see figure 4b)

D. broadcasting using the radio broadcast media at least one clue at least partially during the audio content of said at least one set of commercials as part of the audio content related to the commercials audio content (see col 2, lines 45-65; col 7, lines 50-60) and

E. providing a specified award to each participant whose response to said clue satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60),

Claim 9, Llenas teaches:

wherein the at least one set of regular program content comprises at least two songs, and each of said sets of commercials comprises at least two commercials (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 10, Llenas teaches:

wherein a typical one of said sets of regular program content is broadcast for about ten minutes, and a typical one of said sets of commercials is broadcast for about two minutes (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 11, Llenas teaches:

wherein said award comprises a specific prize (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 12, Llenas teaches:

wherein said award comprises the right to participate in a further phase of said contest (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 13, Llenas teaches:

wherein said response required of a contest participant comprises placing a call to a specified phone number (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 14, Llenas teaches:

wherein said response to win the contest comprises being the nth caller of a plurality of callers, where n is a number specified in the contest procedure (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 15, Llenas teaches:

Conducting a contest within a radio media broadcast program which features regular program content and content related to commercials, comprising:

A. establishing said contest whereby listeners of said program may become participants in said contest by following procedures of said contest, said contest including the radio broadcast of clues using broadcasting media from time to time at least partially during broadcast of one of said commercials, with the contest requirement that a participant respond to said at least one broadcasted clue and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60), (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter

Art Unit: 3688

than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it”),

B. broadcasting using the radio broadcast media at least one set of regular program content during said program (see figure 4b),

C. broadcasting using the radio broadcast media at least one set of commercials during said program as part of the content related to commercials (see col 2, lines 45-65; col 7, lines 50-60);

D. broadcasting using the radio broadcast media at least one clue at least partially during the audio content of a commercial of said at least one set of commercials as part of the audio content related to the commercials audio content (see col 2, lines 45-65; col 7, lines 50-60), and

E. providing a specified award to each participant whose response to said clue satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 16, Llenas teaches:

A method of advertising within a radio media broadcast which features the broadcast of regular program content for a first specified period of time and broadcasting content related to commercials during second specified period of time, comprising:

A. establishing a contest whereby listeners or viewers of said program may become participants in said contest by following procedures of said contest, said contest including the radio broadcast of at least one clue using broadcast

Art Unit: 3688

media from time to time at least partially during broadcast of at least one of said commercials with the contest requirement that a participant respond to said at least one broadcasted clue and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60), (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it”),

B. broadcasting using the radio broadcast media said program during the first specified period of time (see figure 4b)

C. broadcasting using the radio broadcast media at least one set of commercials during said second specified period of time (see figure 4b),

D. broadcasting using the radio broadcast media said at least one clue at least partially during the audio content of a commercial as part of the audio content of said at least one set of commercial, (see col 2, lines 45-65; col 7, lines 50-60), and

E. providing a specified award to each participant whose response to said clue satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 17, Llenas teaches:

A method of advertising within a radio media broadcast program which features regular program content and content related to commercials comprising:

A. establishing a contest whereby listeners of said program may become participants in said contest by following procedures of said contest, said contest including the broadcast using broadcast media of triggering events from time to time, with the contest requirement that a participant respond to said at least one broadcasted triggering event and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60) (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it”),,

B. establishing as one rule of said contest that said triggering event will be the broadcast of audio content of a particular commercial as part of the audio content related to the commercials audio content (see figure 4b)

C. broadcasting using the radio broadcast media at least one set of regular program content during said program (see figure 4b),

D. broadcasting using the radio broadcast media, audio content of at least one of said particular commercials during said program as part of the audio content related to the commercials audio content (see col 2, lines 45-65; col 7, lines 50-60);

E. providing a specified award to each participant whose response to said triggering event satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60).

Claim 18, Llenas teaches:

A method of advertising within radio media broadcast which features the broadcast of regular program content for a first specified period and broadcasting content related to commercials during a second specified time period comprising:

A. establishing a contest whereby listeners or viewers of said program may become participants in said contest by following procedures of said contest, said contest including the broadcast of at least one triggering event using radio broadcast media from time to time, with the contest requirement that a participant respond to said at least one broadcasted triggering event and follow the required procedure of said contest (see figure 4b; col 1, line 5 – col 3, line 60) (see col 1, lines 10-20; col 7, lines 50-67 “a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it”),

B. establishing as one rule of said contest that said triggering event will be the broadcast audio content of a particular commercial as part of the audio content related to the commercials audio content during the second specified time period (see col 2, lines 45-65; col 7, lines 50-60)

C. broadcasting using the radio broadcast media said regular program content for the first specified period of time (see col 2, lines 45-65; col 7, lines 50-60);

D. broadcasting using the radio broadcast media said at least one of said particular commercials which is said triggering event during the second specified time period (see col 2, lines 45-65; col 7, lines 50-60)

E. providing a specified award to each participant whose response to said triggering event satisfied the contest requirements to win said award (see figure 4b; col 1, line 5 – col 3, line 60).

Response to Arguments

4. Applicant's arguments filed 01/26/10 have been fully considered but they are not persuasive. The Applicant argues that Llenas does not teach Applicant's claimed invention because Llenas' black spaces and fade to black do not include audio content. The Examiner answers that Llenas teaches that a clue may be aired during regular programming time. For example, a clue may be aired during one or two second time slot at the end of the taped commercial which, due to inaccurate measurements, happens to be shorter than the time allotted by contract with the television station or the clue may be inserted at the end of the commercial wherein the clue may replace the fade time or shorten it (see col 7, lines 50-67). Therefore, because in Llenas a clue can be aired during regular programming time or during one or two second time slot at the end of a taped commercial, said clue contains audio and therefore, contrary to Applicant's argument, Llenas teaches Applicant's claimed invention.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL LASTRA whose telephone number is 571-272-6720 and fax 571-273-6720. The examiner can normally be reached on 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN WEISS can be reached on (571) 272-6812. The official Fax number is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**/DANIEL LASTRA/
Primary Examiner, Art Unit 3688**